

Ownership of Roentgenogram Negatives or X-Ray Prints

Along with the problem of radiology's place in the field of medicine and surgery there is another legal question relating to the practice of radiology which may at any time become a matter of extreme importance to any radiologist. This question arises most often in court actions for alleged negligence and may be stated as follows: If a patient pays for the services of a radiologist, including therein the cost of films used, who is the owner of the negatives or prints resulting from the radiologist's use of the x-ray? There is one case upon this point: *McGarry vs. Mercier Company*, 262 N. W. 296, 100 A. L. R. 549. In that case the Supreme Court of Michigan came to the conclusion that x-ray negatives or prints are owned by the radiologist. The following is an interesting portion of the Court's opinion:

Further, plaintiff was fully justified in refusing to surrender possession of the x-ray negatives. In the absence of agreement to the contrary, such negatives are the property of the physician or surgeon who has made them incident to treating a patient. It is a matter of common knowledge that x-ray negatives are practically meaningless to the ordinary layman. But their retention by the physician or surgeon constitutes an important part of his clinical record in the particular case, and in the aggregate these negatives may embody and preserve much of value incident to a physician's or surgeon's experience. They are as much a part of the history of the case as any other case record made by a physician or surgeon. In a sense they differ little, if at all, from microscopic slides or tissue made in the course of diagnosis or treating a patient, but it would hardly be claimed that such slides were the property of the patient. Also, in the event of a malpractice suit against a physician or surgeon, the x-ray negatives which he has caused to be taken and preserved incident to treating the patient might often constitute the unimpeachable evidence which would fully justify the treatment of which the patient was complaining. In the absence of an agreement to the contrary, there is every good reason for holding that x-rays are the property of the physician or surgeon rather than of the patient or party who employed such physician or surgeon, notwithstanding the cost of taking the x-rays was charged to the patient or to the one who engaged the physician or surgeon as a part of the professional service rendered.

There is no decision in California on this point. However, it is quite likely that if the occasion arises the courts in this State will hold in accordance with the Michigan decision that x-ray prints or negatives are owned by the physician and not by the patient.

SPECIAL ARTICLES

THE FIGHT AGAINST TUBERCULOSIS*

One of the most powerful mass movements the world has ever known is the world-wide crusade against tuberculosis. Since 1904, when a Danish postal official conceived the idea of a Christmas Seal as a means of raising funds for the cure and prevention of tuberculosis, seals have been sold during the holiday season in over forty-five countries throughout the world.

The first seal to be sold in the United States was issued in Wilmington, Delaware, in 1907. The present seal is issued by the National Tuberculosis Association and sold by local city and county associations from Maine to Hawaii, and from Alaska to Florida. This year, a jolly town crier is depicted on the face of the United States Christmas Seal, bearing glad tidings of the nation-wide tuberculosis control program which has as its constant aim the further reduction in the annual death rate from tuberculosis, and the ultimate control of this disease.

In California the sixty-one local city and county tuberculosis associations have made great strides during the last year in uncovering early cases of tuberculosis in high school and college age groups. More than 100,000 students, or 10 per cent of the total enrollment in schools and colleges in this State were given tuberculin tests during the past year in case-finding surveys conducted by local associations.

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One-third of all high school students reacted positively to the tests, an even larger percentage of college students, and from 20 to 25 per cent of grammar school children.

Roentgenograms were taken of the positive reactors, and the findings discussed at medical meetings held to study the results of the surveys. The reports on both positive and negative reactors, as well as the x-ray films taken of the positives, were turned over to the family physicians named by the parents of the examined students. In most cases a public health nurse was employed to assist the physicians in bringing the student's entire family to his office for examination. Every effort was made to trace the sources of infection. Numerous unrecognized cases were uncovered through this procedure. The early treatment of these cases of active disease has not only saved many lives, but has aided greatly in preventing the further spread of infection.

Consultative clinics are another feature of the tuberculosis programs of the tuberculosis associations. These are teaching clinics, which have been held in some thirty counties throughout the State. They are held only upon the invitation of the county medical society. The cases studied in these consultative clinics are cases referred by local physicians for teaching purposes.

The theory behind the establishment of these consultative clinics was based on these facts, true in 1930:

That more than 85 per cent of tuberculosis patients in sanatoriums were moderately or far advanced.

That more than 75 per cent of these cases were moderately or far advanced before they came to the attention of a tuberculosis specialist.

Since 1930 much has been accomplished in the field of preventive control. The examination for tuberculosis of two hundred thousand young people in California during the past few years has brought to light many unrecognized cases of the disease, and has brought nearly as many parents and other relatives of these students into their doctors' offices for examination. The consultative clinics held in thirty counties have given practicing physicians in these regions assistance in the diagnosis of unusual cases and have helped to keep them informed of the latest advances in diagnosis and treatment.

The awakened interest of the general practitioner in tuberculosis is a great stride forward, since this disease will not be controlled until every general practitioner takes it upon himself to diagnose and treat tuberculosis.

TWO ARTICLES OF INTEREST IN "THE NATION" AND "THE AMERICAN MERCURY"

What One ("The Nation") Has to Say About the "Civil War" in the A. M. A., and What the Other ("The American Mercury") States About "The Nation"

From the publication office of *The Nation* a "marked copy" of the November issue was recently received by CALIFORNIA AND WESTERN MEDICINE. The item to which our attention was called was printed on page 519, and reads as follows:

Civil war has broken out at last in the American Medical Association—a very civil and respectable war, but for that reason perhaps the more formidable. A group of 430 doctors, many of them leading figures in the profession, has openly rebelled against the do-nothing group, headed by Doctor Fishbein, that controls the Association. They have published a manifesto much like one that was sidetracked in committee at the last American Medical Association convention. The patient public will welcome any open revolt against the reactionary medical machine. *The Nation* congratulates this democratic medical "four hundred" on furnishing the leadership which the profession so badly needs. At last the public can look to a responsible professional group for help in solving the problem of paying its doctor's and hospital bills. But it must be said that the manifesto seems designed to help the doctors even more than the public. While it declares the health of the people to be a national issue with which the federal, state, and local governments should be more actively concerned, and calls for a national health program, the principal objective seems to be to pay the doctors for their care of the "medically indigent." We have no objection to this worthy